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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT PAPER NUMBER

2165

DATE MAILED: 12/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/695,149	Applicant(s) ITO ET AL.	
	Examiner Neveen Abel-Jalil	Art Unit 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Preliminary Amendment 11/27/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/746,608.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remarks

1. The Preliminary Amendment filed on October 27, 2005 has been received and entered. Claims 1-23 have been cancelled. Claims 24-43 have been added. Therefore, claims 24-43 are now pending.

2. The newly amended title is hereby acknowledged and entered.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/746,608, filed on 12/20/2000.

Specification

4. The abstract of the disclosure is objected to because the abstract is not in single paragraph form. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 24-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-42 of Ito et al. U.S. Patent No. 6,654,769 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are arguably broader than claim 1 of Ito et al. '769 which encompasses the same metes, bounds, and limitations. Therefore, it would be obvious to eliminate the

limitations of the narrower claims, since it has been held that omission of an element and its function and a combination where the remaining elements perform the same functions as before involves only routine skill in the art. See In re Karlson, 136 USPQ 184.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 24-28, 33-36, and 39-41 are rejected under 35 U.S.C. 102(e) as being anticipated by Wolff (U.S. Patent No. 6,185,601).

As to claim 24, Wolff discloses a computer system comprising:

a first node coupled to a physical disk via a first path (See figures 7A, 7B, Nodes 1-4);

a second node coupled to said physical disk via a second path (See figures 7A, 7B, Nodes 1-4), said second node being coupled to said first node via a network (See figure 1B, 108, shows “network” represented by “Public LAN/WAN”); and

a physical disk connecting to a first disk controller and to a second disk controller (See figure 5A, Node 1-N), said first disk controller being coupled to said first node via said first path, said second disk controller being coupled to said second node via said second path (See column

2, lines 3-13, wherein “physical disk device” reads on “resource”), each of said first node and said second node comprising:

a file management table (See figure 14, 1458, 1460, shows “file management table” represented by “file record” and “file location record”) including a file ID (See figure 8, 460, 462, shows “file ID” represented by “File location record” and Dev ID”) and a logical disk ID of a logical disk, said logical disk being a storage area in said physical disk and storing a file corresponding to said file ID (See figure 8, 460, 462, shows “file ID” represented by “File Location record” and “Dev ID”); and

a logical disk management table including said logical disk ID (See figure 8, 460, 462, shows “file ID” represented by “File Location record” and “Dev ID”), a first path information designating said first path, and a second path information designating said second path (See column 18, lines 50-53), said first path information including a first node ID designating said first node and first status information designating status of said first path, and said second path information includes a second node ID designating said second node and second status information designating status of said second path (See column 2, lines 3-13, wherein “physical disk device” reads on “resource”, also see column 23, lines 53-60, wherein “status flag” reads on “marked”),

each of said first node and said second node configured to select a path for accessing said logical disk (See column 18, lines 63-67, also see column 19, lines 1-12, wherein “logical disk” reads on “namespace”), if it receives an access request including said file ID, said path being selected based on said received file ID, said file management table, and said logical disk management table (See figure 8, 460, 462, shows “file ID” represented by “File Location record”

and “Dev ID”, also see column 56, lines 18-28, wherein “logical disk ID” reads on “logical file names”),

wherein when said first path becomes unavailable (See column 23, lines 42-60, wherein “unavailable” reads on “marked as failed”), said first node configured to respond by:

changing said first status information and said second status information in said logical disk management table in order to change an access path to said logical disk (See column 31, lines 55-63, wherein “logical disk management table” reads on “database of available resources” and wherein “logical disk ID” reads on “namespace”); and

sending said logical disk ID, said changed first path information, and said changed second path information to other nodes coupled to said network (See column 31, lines 55-63, wherein “logical disk ID” reads on “namespace”).

As to claim 25, Wolff discloses wherein said first node includes a first input/output (I/O) interface via which said first node is coupled to said first disk controller, and said second node includes a second I/O interface via which said second node is coupled to said second disk controller (See column 57, lines 10-13, also see column 18, lines 31-43, also see column 23, lines 34-41, also see column 57, lines 8-17, wherein “first and second controller” reads on “each device driver handles one device type”),

wherein said first path information further includes a first disk controller ID designating said first disk controller, and a first I/O interface ID designating said first I/O interface h (See column 54, lines 45-63, wherein “disk controller” reads on “control”, also see column 2, lines 53-67),

wherein said second path information further includes a second disk controller ID designating said second disk controller (See column 57, lines 8-17, wherein “controller ID” reads on “each device driver handles one device type”), and a second I/O interface ID designating said second I/O interface (See figure 10F, 1200, I/O A, and figure 10G, 1300, I/O B, also see column 16, lines 41-42).

As to claim 26, Wolff discloses further comprising a third node coupled to said first node and said second node via said network (See figure 5A, Node1-N, also see column 1, lines 61-66), said third node including said file management table and said logical disk management table (See column 31, lines 55-63),

wherein when said third node detects a fault in said first node, said third node sends said second node a request for changing an access path to said logical disk (See column 52, lines 28-34, also see column 23, lines 34-41),

said second node changes said first status information and said second status information in said logical disk management table in order to change an access path to said logical disk, and sends said logical disk ID, said changed first path information, and said changed second path information to other nodes coupled to said network (See column 31, lines 55-63, wherein “status information” reads on “database of available resources” and wherein “logical disk ID” reads on “namespace”), and

wherein said other nodes (See figures 7A, 7B, Nodes 1-4) can update their respective logical disk management tables based on data received from said second node (See column 31,

lines 55-63, wherein “logical disk management table” reads on “database of available resources” and wherein “logical disk ID” reads on “namespace”).

As to claim 27, Wolff discloses wherein if an access request issued from one of said other nodes to said logical disk times out, then said one of said other nodes selects an access path to said logical disk based on its updated logical disk management table (See column 56, lines 34-54, wherein “time out” reads on “scheduling”, also see column 23, lines 53-60).

As to claim 28, Wolff discloses wherein when said third node detects a fault in said first node, said third node selects a path which becomes unavailable and a corresponding path whose status is waiting (See column 23, lines 53-60, wherein “status” reads on “marked”, also see column 23, lines 42-60, wherein “unavailable” reads on “ marked as failed”), and

said third node sends said request for changing an access path to said second node (See column 66, lines 23-25, wherein “user” reads on “client”), said second node is coupled to said logical disk via said corresponding path (See column 28, lines 3-19, wherein “switch” reads on “redistribution”).

As to claim 33, Wolff discloses wherein each of said first node and said second node (See figure 5A, Node1-N) further includes a buffer cache for storing data to be written into said logical disk (See column 31, lines 55-63, wherein “logical disk” reads on namespace”), and

when said first path becomes unavailable before storing data from said buffer cache of said first node into said logical disk, said first node sends said data to said second node, and said

second node stores said data into said logical disk via said second path (See column 23, lines 42-60, wherein “unavailable” reads on “ marked as failed”).

As to claim 34, Wolff discloses wherein said file management table further includes file management information which is updated based on a received write request (See column 6, lines 31-35), when said file management information is updated, each of said first node and said second node stores said file management table into said physical disk (See column 43, lines 14-21, also see column 44, lines 1-21, also see column 2, lines 3-13, wherein “physical disk devise” reads on “resource”), and

when said first path becomes unavailable before said updated file management table in said first node is stored into said physical disk, said first node sends data in said updated file management table to said second node, and said second node writes said received data into said physical disk (See column 58, lines 1-7, also see column 1, lines 61-66, wherein “physical disk devices” reads on “resource on the network”, also see column 31, lines 55-63).

As to claim 35, Wolff discloses wherein each of said first disk controller and said second disk controller includes a disk cache for storing data to be stored in said physical disk (See column 57, lines 8-17, wherein “firs and second controller” reads on “each device driver handles one device type”), and

when said first path becomes unavailable before data stored in said disk cache of said first disk controller is stored in said physical disk (See column 23, lines 42-60, wherein “unavailable” reads on “ marked as failed”), said second node issues a command for writing said

data in said disk cache into said physical disk via said second disk (See column 59, lines 15-28, wherein “physical disk device” reads on “volume” and wherein “operational” reads on “to have read/write access”).

As to claim 36, Wolff discloses a first node coupled to a second node via a network comprising:

first I/O interface (See figure 10F, 1200, I/O A, and figure 10G, 1300, I/O B, also see column 16, lines 41-42) for coupling to a physical disk via a first disk controller, said physical disk coupled to said second node via a second disk controller and a second interface (See column 57, lines 8-17, wherein “first disk controller” reads on “each device driver handles one device type”);

a file management table (See figure 14, 1458, 1460, shows “file management table” represented by “file record” and “file location record”) including a file ID (See figure 8, 460, 462, shows “file ID” represented by “File location record” and Dev ID”) and a logical disk ID of a logical disk, said logical disk being a storage area in said physical disk and storing a file corresponding to said file ID (See figure 8, 460, 462, shows “file ID” represented by “File Location record” and Dev ID”); and

a logical disk management table including said logical disk ID (See figure 8, 460, 462, shows “file ID” represented by “File Location record” and Dev ID”), a first path information designating a first path through said first node, and a second path information designating a second path through said second node, each of said first path information and said second path information including a node ID designating a node on said path, and a status information

designating availability of said path (See column 18, lines 37-43, wherein “standby” reads on “be used in the future”, also see column 2, lines 53-67),

wherein when said status information of said first path is available and said status information of said second path is waiting (See column 18, lines 31-43, also see column 18, lines 50-53), said first node selects said first path for accessing a file designated by said file ID which is included in an access request (See column 66, lines 23-25, wherein “user” reads on “client”, also see column 65, lines 1-7, wherein “file ID” reads on “pointer”),

wherein when said first path becomes unavailable, said first node changes said status information of said first path to unavailable, changes said status information of said second path to available, and sends said logical disk ID, a changed first path information, and a changed second path information to said second node in order to change a path used for accessing said logical disk (See column 58, lines 1-7, also see column 1, lines 61-66, wherein “available devices” reads on “resource on the network”, also see figure 11A, labeled Prior Art, also see column 55, lines 37-45, wherein “buffer cache” reads on “client”).

As to claim 39, Wolff discloses wherein said first node further comprises a buffer cache for storing data to be written into said logical disk,

wherein when said first path becomes unavailable before storing data stored in said buffer cache into said logical disk, said first node sends said data to said second node to store said data into said logical disk via said second path (See column 58, lines 1-7, also see column 1, lines 61-66, wherein “available devices” reads on “resource on the network”, also see figure 11A, labeled

Prior Art, also see column 55, lines 37-45, wherein “buffer cache” reads on “client”, also see column 67, lines 9-18, wherein “unavailable” reads on “logged off”).

As to claim 40, Wolff discloses wherein said file management table further includes file management information which is updated based on a received write request,

wherein when said file management information is updated, said first node stores said file management table into said physical disk (See column 58, lines 1-7, also see column 1, lines 61-66, wherein “physical disk devices” reads on “resource on the network”), and

wherein when said first path becomes unavailable before said updated file management table is stored into said physical disk, said first node sends data in said updated file management table to said second node to store said data into said physical disk via said second path (See column 58, lines 1-7, also see column 1, lines 61-66, wherein “physical disk devices” reads on “resource on the network”).

As to claim 41, Wolff discloses a second node coupled to a first node via a network comprising:

a second I/O interface (See figure 10F, 1200, I/O A, and figure 10G, 1300, I/O B, also see column 16, lines 41-42) for coupling to a physical disk via a second disk controller, said physical disk being coupled to said first node via a first disk controller and a first I/O interface (See column 58, lines 1-7, also see column 1, lines 61-66, wherein “physical disk devices” reads on “resource on the network”);

a file management table including a file ID and a logical disk ID of a logical disk (See column 9, lines 58-61, wherein “logical disk reads on “logical resource”), said logical disk being a storage area in said physical disk and storing a file corresponding to said file ID (See column 6, lines 42-50, also see column 31, lines 55-63, wherein “logical disk ID” reads on “namespace”); and

a logical disk management table including said logical disk ID (See column 17, lines 19-28), a first path information designating a first path to said logical disk through said first node, and a second path information designating a second path to said logical disk through said second node (See figure 1B, 108, shows “network” represented by “Public LAN/WAN”), each of said first path information and said second path information including a node ID designating a node on said path, and a status information designating availability of said path (See figure 11A, labeled prior art, wherein “remote node” reads on “client A” and “client B”, also see column 18, lines 37-43, wherein “standby” reads on “be used in the future”),

wherein when said status information of said first path is available and said status information of said second path is waiting, said second node receives an access request including said file ID (See figure 8, 460, 462, shows “file ID” represented by “File Location record” and “Dev ID”, also see column 31, lines 52-63, wherein “waiting” reads on “configuration subroutine of available resources and paths”) and transfers said access request to said first node via said network thereby accessing said logical disk through said first path, wherein when said first path becomes unavailable (See figure 11A, labeled Prior Art, wherein “node” reads on “client A” and “client B” and also see column 55, lines 37-45, wherein “node” reads on “clients”), said second node changes said status information of said first path to unavailable and changes said status

information of said second path to available in order to change a path used for accessing said logical disk (See column 58, lines 1-7, also see column 1, lines 61-66, wherein "available devices" reads on "resource on the network", also see column 67, lines 9-18, wherein "unavailable" reads on "logged off").

Allowable Subject Matter

5. Claims 29-32, 37-38, and 42-43 would be allowable if rewritten to overcome the rejection(s) under Double Patenting, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wilby et al. (U.S. Patent No. 5,941,955) teaches recovery of distributed data access routing upon failure of links.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2165

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Neveen Abel-Jalil
November 28, 2005



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ART UNIT 2100